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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,190	06/06/2001	J. William Whitehart	199-2062 (VGT 0179 PUS)	9108
7590 09/12/2005 Artz & Artz, P.C. 28333 Telegraph Road, Suite 250 Southfield, MI 48034			EXAMINER KNOWLIN, THJUAN P	
			ART UNIT 2642	PAPER NUMBER

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/876,190

Applicant(s)

WHIKEHART ET AL.

Examiner

Thjuan P. Knowlin

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**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 15 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Attachment.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_.

Examiner: Thjuan P. Knowlin  
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1. Applicant's arguments filed 08/15/05 have been fully considered but they are not persuasive.


2. Applicants argue that the Claxton reference does not teach or suggest filtering out any undesired signals, but instead sums all high frequency signals and downconverts to an intermediate frequency, whether the signals are desired or undesired, and then further downconverts the signals to a baseband frequency.

Applicants further argue that the Claxton reference does not teach or disclose a plurality of tunable bandpass filters for filtering analog RF signals, and does not teach defining multiple desired signals into one summed signal. These limitations, however, are found in Claxton et al (US 6,741,847).

3. Examiner respectfully disagrees with the above arguments. Applicants argue that the Claxton reference does not require summing only desired signals, but instead downconverts all high frequency signals, including desired and undesired signals, to an intermediate frequency, or baseband signal. By reciting in the claims and arguing that only the desired signals are summed, does not make the present invention patentable over the Claxton reference. As stated by Applicants, the Claxton reference sums both desired and undesired signals, which means that a signal could be summed automatically or it could be summed only when wanted/desired. Furthermore, the Claxton reference discloses all limitations, such as a receiver (receiver 10 and receiver 60) and method for simultaneously processing multiple channels in a broadcast band (Abstract and col. 2 lines 13-20), said receiver comprising: at least one antenna (antenna 12) for receiving analog RF signals (col. 3 lines 39-47); a plurality of tunable

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bandpass filters (BPF 32), each filter for filtering said analog RF signals, each bandpass filter for tuning to a desired frequency signal, thereby defining multiple desired signals (col. 5 lines 29-52); a summer (summation 180) for summing said multiple desired signals into one summed signal (col. 9 lines 4-13); a digitizer (comparator 186) for digitizing said summed signal (col. 9 lines 14-29); and a digital tuner (digital sub-band tuners (DSBT) 274) capable of simultaneously processing multiple desired signals from said digitized signal (col. 11 lines 34-47).



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